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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/520,601

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EXAMINER

CHEUNG, VICTOR

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

03/05/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/520,601	Applicant(s) STEVENS, CHRISTOPHER	
	Examiner VICTOR CHEUNG	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :01/07/2005, 08/02/2005, 02/05/2007, 02/22/2007, 05/12/2008, 07/08/2008.

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DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on 07/09/2002. It is noted, however, that applicant has not filed a certified copy of the AU 2002950063 application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 15-28 and 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 15-28 and 30 are drawn to “a game”, however, the claim limitations do not appear to be drawn to any game, nor are there any gameplay elements present. The game is claimed to be “played” on a game playing apparatus, but the game simply appears to consist of the possibility of symbols appearing on a display and awarding a feature based on the outcome. The claims do not include any structure, apparatus, method, or process which describe the game itself, and thus it is unclear as to which one of the four statutory classes of invention: process, machine, manufacture, or composition of matter, the claims belong to.

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Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15-28 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See the 35 U.S.C. 101 rejection above for more information regarding these claims. It is unclear as to what comprises the “game” being claimed. There does not appear to be any structure or method describing the game. A game playing apparatus is claimed, as well as a conditional limitation describing a possible occurrence in the game, but it is still what comprises the game being claimed.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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7. Claims 1-6, 8-11, 13-20, 22-25, and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Gura et al. (US Patent No. 6,270,411).

Re Claims 1 and 15: Gura et al. disclose a gaming machine having a display means and a game control means arranged to control images of symbols displayed on the display means (Figs. 1-2), the game control means being arranged to play a game wherein at least one random event is caused to be displayed on the display means (Col. 3, Line 59-Col. 4, Line 4) and, if a predefined winning event occurs, the machine awards a prize (Col. 4, Lines 33-42), wherein, if in the game, a plurality of die symbols are present on the display means, the die symbols reveal outcomes, at least one of which results in the awarding of a feature (Col. 7, Line 23-Col. 8, Line 41).

Re Claims 2, 4, 13, 16, 18, 27: Gura et al. disclose that the die symbols change to reveal the outcomes by means of an animation technique of rolling a dice (Col. 7, Lines 36-52).

Re Claims 3, 17: Gura et al. disclose that at least two of the die symbols are required to initiate the change to reveal outcomes (Col. 7, Lines 23-35).

Re Claims 5, 19: Gura et al. disclose that the game is a spinning reel game, and that the die symbols are carried on two different reels (Figs. 4-7).

Re Claims 6, 20: Gura et al. disclose that the animating of the die symbols into the outcome acts as a trigger condition for the feature (Col. 7, Line 66-Col. 8, Line 41).

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Re Claims 8, 22: Gura et al. disclose that the trigger condition governs a characteristic of the feature awarded (Col. 7, Line 66-Col. 8, Line 41).

Re Claims 9-11, 23-25: Gura et al. disclose that the animations occur simultaneously, sequentially, and automatically (Col. 7, Lines 36-65).

Re Claims 14, 28: Gura et al. disclose the feature is a bonus feature include the paying of a bonus prize (Col. 7, Line 66-Col. 8, Line 41).

8. Claims 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Vancura (US Patent Application Publication No. 2003/0228897).

Re Claims 29-30: Vancura discloses a gaming machine having a display means and a game control means arranged to control images of symbols displayed on the display means, the game control means being arranged to play a game wherein at least one random event is caused to be displayed on the display means (Figs. 1-3; Paragraph 28) and, if a predefined winning event occurs, the machine awards a prize (Paragraphs 28, 42), wherein, if in the game, a plurality of mutable die symbols are present on the display means, the die symbols reveal outcomes, at least one outcome resulting in the awarding of a feature, and at least another outcome resulting in the non-awarding of the feature (Paragraph 42).

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Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7, 12, 21, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gura et al. (US Patent No. 6,270,411) in view of Vancura (US Patent Application Publication No. 2003/0228897).

Re Claims 7, 21: Gura et al. disclose that the numbers on corresponding faces of the die symbols are used to trigger the feature of the invention (Col. 7, Line 66-Col. 8, Line 41).

However, Gura et al. do not specifically disclose that the trigger conditions including matching numbers on the die symbols, the sum of the numbers adding up to at least a particular amount, or that predetermined numbers appear on predetermined faces of the die symbols.

Vancura discloses using animated dice as trigger symbols wherein a trigger condition includes matching numbers on the corresponding faces of the die symbols (Paragraph 42).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a trigger condition including having matching numbers on corresponding faces of die symbols, thus achieving the predictable result of providing a probability-based trigger condition that does not result in a guaranteed bonus to the player.

Re Claim 12, 26: Gura et al. disclose the limitations of claims 4 and 18 above.

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However, they do not specifically disclose that the die symbols animate by player intervention.

Vancura discloses a slot machine bonus system including trigger symbols that appear on the reels of a base game, wherein each trigger symbol is activated through player intervention to reveal its underlying attribute (Paragraph 41).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to animate the die symbols by player intervention, thereby creating excitement though providing player interaction in the bonus game system.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Baerlocher et al. (US 2003/0190947) disclose a gaming device including animated trigger symbols that reveal attributes when activated on in a slot reel game.
- Bennett (US 2003/0013519) discloses a gaming machine with a bonus mechanism including a player interactively revealing values by animating trigger symbols.
- Bennett (US 6,419,579) discloses using an animated die trigger symbol.
- Fong (US 7,014,559) discloses substituting reel symbols with trigger symbols upon the occurrence of a trigger event.
- Gray et al. (US 2003/0078089) disclose a gaming machine including presenting a plurality of die symbols on a display and animating the die symbols to reveal game outcomes.

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- Kaminkow (US 6,780,109) discloses a gaming machine including dice symbols that transform into a wild state.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR CHEUNG whose telephone number is (571)270-1349. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit
3714

/V. C./
Examiner, Art Unit 3714